

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

LEROY J. KELLY,

Petitioner,

v.

Civil Action No. 3:13cv318

WARDEN COPENHAVEN,

Respondent.

**MEMORANDUM OPINION**

Leroy J. Kelly, a California state prisoner proceeding pro se, submitted a petition under 28 U.S.C. § 2254. In the United States District Court for the Eastern District of Virginia, all pro se petitions for writs of habeas corpora must be filed on a set of standardized forms. See E.D. Va. Loc. Civ. R. 83.4(A). Accordingly, by Memorandum Order entered July 2, 2013, Kelly was directed to submit his claims on the standardized forms and the Court mailed the standardized form for filing a § 2254 petition to Kelly. (ECF No. 8, at ¶ 2.) The Court warned Kelly that failure to complete and return the form would result in dismissal of the action. (Id.) Kelly has filed the standardized forms, however, Kelly has failed to comply with the Court's directives. (See ECF No. 11.)

In its Memorandum Order, the Court explained that its "consideration of Petitioner's grounds for habeas relief shall be limited to the grounds and supporting facts concisely set

forth on this standardized form or any attached pages.  
**Petitioner may not incorporate other documents by reference."**

(ECF No. 8 (emphasis added) ¶ 2.) Kelly failed to set forth his supporting arguments on the standardized form and instead attempts to incorporate by reference his facts and supporting arguments in three prior submissions. As Kelly failed to follow the Court's directives and return the appropriately completed standardized form, the action will be dismissed without prejudice.

An appeal may not be taken from the final order in a § 2254 proceeding unless a judge issues a certificate of appealability ("COA"). 28 U.S.C. § 2253(c)(1)(A). A COA will not issue unless a prisoner makes "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). This requirement is satisfied only when "reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were 'adequate to deserve encouragement to proceed further.'" Slack v. McDaniel, 529 U.S. 473, 484 (2000) (quoting Barefoot v. Estelle, 463 U.S. 880, 893 & n.4 (1983)). No law or evidence suggests that Kelly is entitled to further consideration in this matter. A certificate of appealability will therefore be denied.

The Clerk is directed to send a copy of the Memorandum Opinion to Kelly.

An appropriate Order shall issue.

/s/ REP

Robert E. Payne  
Senior United States District Judge

Richmond, Virginia

Date: *August 13, 2013*